

§ 286.10

WtW cash assistance, when provided to participants in the Welfare-to-Work program, has the meaning specified at § 286.130.

§ 286.10 What does the term “assistance” mean?

(a) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (*i.e.*, for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(1) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service or any other work activity.

(2) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) It excludes:

(1) Nonrecurring, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (*i.e.*, payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, information on and referral to Medicaid, Child Health Insurance Program (CHIP), Food Stamp and Native Employment Works (NEW) programs, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

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(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

(c) The definition of the term assistance specified in paragraphs (a) and (b) of this section does not preclude a Tribe from providing other types of benefits and services consistent with the purposes of the TANF program.

§ 286.15 Who is eligible to operate a Tribal TANF program?

(a) An Indian tribe that meets the definition of Indian tribe given in § 286.5 is eligible to apply to operate a Tribal Family Assistance Program.

(b) In addition, an intertribal consortium of eligible Indian tribes may develop and submit a single TFAP.

Subpart B—Tribal TANF Funding

§ 286.20 How is the amount of a Tribal Family Assistance Grant (TFAG) determined?

(a) We will request and use data submitted by a State to determine the amount of a TFAG. The State data that we will request and use are the total Federal payments attributable to State expenditures, including administrative costs (which includes systems costs) for fiscal year 1994 under the former Aid to Families With Dependent Children, Emergency Assistance and Job Opportunities and Basic Skills Training programs, for all Indian families residing in the geographic service area or areas identified in the Tribe’s letter of intent or Tribal Family Assistance Plan.

(1) A Tribe must indicate its definition of “Indian family” in its Tribal Family Assistance Plan. Each Tribe may define “Indian family” according to its own criteria.

(2) When we request the necessary data from the State, the State will have 30 days from the date of the request to submit the data.

(i) If we do not receive the data requested from the State at the end of the 30-day period, we will so notify the Tribe.

(ii) In cases where data is not received from the State, the Tribe will

have 45 days from the date of the notification in which to submit relevant information. Relevant information may include, but is not limited to, Census Bureau data, data from the Bureau of Indian Affairs, data from other Federal programs, and Tribal records. In such a case, we will use the data submitted by the Tribe to assist us in determining the amount of the TFAG. Where there are inconsistencies in the data, follow-up discussions with the Tribe and the State will ensue.

(b) We will share the data submitted by the State under paragraph (a)(2)(i) of this section with the Tribe. The Tribe must submit to the Secretary a notice as to the Tribe's agreement or disagreement with such data no later than 45 days after the date of our notice transmitting the data from the State. During this 45-day period we will help resolve any questions the Tribe may have about the State-submitted data.

(c) We will notify each Tribe that has submitted a TFAG of the amount of the TFAG. At this time, we will also notify the State of the amount of the reduction in its SFAG.

(d) We will prorate TFAGs that are initially effective on a date other than October 1 of any given Federal fiscal year, based on the number of days remaining in the Federal fiscal year.

§ 286.25 How will we resolve disagreements over the State-submitted data used to determine the amount of a Tribal Family Assistance Grant?

(a) If a Tribe disagrees with the data submitted by a State, the Tribe may submit additional relevant information to the Secretary. Relevant information may include, but is not limited to, Census Bureau data, data from the Bureau of Indian Affairs, data from other Federal programs, and Tribal records.

(1) The Tribe must submit any relevant information within 45 days from the date it notifies the Secretary of its disagreement with State submitted data under § 286.20(b).

(2) We will review the additional relevant information submitted by the Tribe, together with the State-submitted data, in order to make a determination as to the amount of the TFAG. We will determine the amount

of the TFAG at the earliest possible date after consideration of all relevant data.

§ 286.30 What is the process for retrocession of a Tribal Family Assistance Grant?

(a) A Tribe that wishes to terminate its TFAG prior to the end of its three-year plan must—

(1) Notify the Secretary and the State in writing of the reason(s) for termination no later than 120 days prior to the effective date of the termination, or

(2) Notify the Secretary in writing of the reason(s) for termination no later than 30 days prior to the effective date of the termination, where such effective date is mutually agreed upon by the Tribe and the affected State(s).

(b) The effective date of the termination must coincide with the last day of a calendar month.

(c) For a Tribe that retrocedes, the provisions of 45 CFR part 92 will apply with regard to closeout of the grant. All unobligated funds will be returned by the Tribe to the Federal government.

(d) The SFAG will be increased by the amount of the TFAG available for the subsequent quarterly installment.

(e) A Tribe's application to implement a TANF program subsequent to its retrocession will be treated as any other application to operate a TANF program, except that we may take into account when considering approval—

(1) Whether the circumstances that the Tribe identified for termination of its TANF program remain applicable and the extent to which—

(i) The Tribe has control over such circumstances, and

(ii) Such circumstances are reasonably related to program funding accountability, and

(2) Whether any outstanding funds and penalty amounts are repaid.

(f) A Tribe which retrocedes a Tribal TANF program is responsible for:

(1) Complying with the data collection and reporting requirements and all other program requirements for the period before the retrocession is effective;

(2) Any applicable penalties (see subpart D) for actions occurring prior to